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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/589,974	06/08/2000	David Jau Young Lee	139.132USU1	9891

22462 7590 10/03/2006

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EXAMINER

RYMAN, DANIEL J

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 10/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/589,974

Applicant(s)

LEE ET AL.

Examiner

Daniel J. Ryman

Art Unit

2616

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 September 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____


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Continuation of 11. does NOT place the application in condition for allowance because: Applicant asserts that "Frid fails to teach a home agent communicating with a foreign agent using an internet-protocol network separate from the cellular network." Response, p. 9. Examiner, respectfully, disagrees. Frid discloses that in Mobile IP "serving mobile telecommunication nodes and devices, such as an MSC and BS, are only utilized for the very last leg of the packet communication link with a mobile station." Col. 1, lines 42-48. Thus, the cellular network comprises only the very last leg of the link. Frid further discloses that in Mobile IP "[t]he mobility management (MM) for keeping track of the current location of a mobile station and for effectuating packet communication therewith are further performed by separate packet data communications nodes, such as a home agent (HA) and foreign agent (FA)." Col. 1, lines 48-52. Thus, the FA and HA are not part of the mobile communication network, but they are part of a packet communication network. See e.g. Fig. 3 (the MSC and the BS, i.e. the cellular network, are separate from the FA and the HA, which are packet communication nodes). Frid further discloses that the FA and HA communicate over an IP tunnel consisting of an IP packet encapsulated within another IP packet. Col. 7, lines 22-32. As such, Examiner maintains that Frid teaches that the HA communicates with a FA using an IP network separate from the cellular network.

Applicant further asserts that "'tunneling' is a method of transmission over networks based on differing protocols," Response, p. 9, and that "the fact that the foreign agent encapsulates another packet within the packet addressed to the home agent is irrelevant," Response, p. 9. Examiner, respectfully, disagrees. First, Examiner notes that, contrary to Applicant's assertion that the FA encapsulates the packet, Frid discloses that the HA encapsulates an IP packet, which is sent to the FA. Frid: col. 7, lines 22-33. Second, Examiner maintains that it is not irrelevant that the HA encapsulates another packet within the packet addressed to the FA since this is what constitutes the IP tunnel. Contrary to Applicant's assertion that "'tunneling' is a method of transmission over networks based on differing protocols," Frid discloses that the tunnel consists of an IP packet encapsulated within another IP packet. Therefore, Examiner maintains that Frid discloses tunneling using an IP network.

Examiner notes that the passages relied upon in Frid constitute a typical Mobile IP situation. For further explanation of this protocol, Examiner directs Applicant to Leung (USPN 6,195,705), col. 1, line 5-col. 2, line 44. Of particular relevance is col. 2, lines 20-44, which details that "tunneling" in Mobile IP constitutes encapsulating an IP packet within another IP packet, such that all communications occur over the IP network.